IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON''BLE MR JUSTICE M.H.S. ANSARI

And

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 5697 of 1996

Between:

Sri Radha Krishna, Mini Jute Twine Mills, Rep. by Partner Managing

Director, Sri Veddadi Krishna Rao s/o. late Satyanarayana
Chipurupalli, Vijayanagaram District.

..... PETITIONER

AND

1 Commissioner of Commercial Taxes,
Andhra Pradesh, Hyderabad.
2 Deputy Commercial Tax Officer,
Gajapathinagaram, Vijayanagaram district.
3 Deputy Commissioner of Commercial Taxes,
Vijayanagaram.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order preferably writ of mandamus declaring the impugned orders issued through C.C.T's Ref. A-II (3) / 1962/95, dt. 8-11-' 95 issued by the 1st respondent as arbitrary, illegal against the principles of Natural Justice and against Jurisdiction and authority of law and this violative of fundamental rights guaranteed to the petitioner under Art. 14, 13, 19G,166 even Art.21 and also 301 of the Constitution of India and thus to pass such other orders or further orders as this Hon'ble Court may deem fit and necessary under the circumstances of the case.

Counsel for the Petitioner: MR.D.DHILLESWAR RAO
Counsel for the Respondents: GP FOR COMMERCIAL TAXES

The Court made the following:

ORAL ORDER: (per MHSA.J.)

The question involved in the instant Writ Petition is the same as considered by this Court in L.C.K. CEMENTS LIMITED vs. THE COMMISSIONER OF COMMERCIAL TAXES, A.P. HYDERABAD AND OTHERS[1].

2. The short question that was considered in the said Judgment was as to whether the petitioner in that case is entitled for deferment of tax when an incentive offered by the State Government in G.O.Ms.No.498, dated 15.10.1995. The said question was answered in the following terms:

> "Inasmuch as the Final Eligibility Certificate dated 31.10.1995 accepts the date of commencement of the production as 28.6.1994, entered in column 5, and allows the benefit for five years from 28th June, 1994 to 27th June, 1999, as could be seen from column 10(b) of the said Certificate, the 3rd respondent has no authority to deprive the petitioner of the benefit of deferment of tax as granted under the Final Eligibility Certificate for the period of five years from 28.12.1994 to 30.10.1995. We, therefore, quash the impugned notice No.G1/14285/95-96, dated 9.4.1996 and allow the Writ Petition, declaring that the petitioner is entitled to the benefit of deferment of tax for a period of five years as mentioned in column 10 of the Final Eligibility Certificate and direct the respondents not to demand the tax pursuant to the impugned notice".

3. Accordingly the instant Writ Petition is allowed in part with similar directions as quoted supra and set aside the Circular dated 8.11.1995 issued by the 1st respondent-Commissioner of Commercial Taxes impugned in the instant Writ Petition. In the facts and circumstances of the case, there shall be no order as to costs.

(M.H.S.ANSARI, J.)

22nd December, 2004.

(S.ANANDA REDDY, J.)

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Commissioner of Commercial Taxes,
Andhra Pradesh, Hyderabad.
2 Deputy Commercial Tax Officer,
Gajapathinagaram, Vijayanagaram district.
3 Deputy Commissioner of Commercial Taxes,
Vijayanagaram.

4 2CCs to G.P. for Commercial Taxes, High Court of A.P. (OUT)

5 2CD copies.

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